

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GENEVA L. BELL and DEPARTMENT OF COMMERCE,
CENSUS BUREAU, Mayfield, KY

*Docket No. 00-216; Submitted on the Record;
Issued October 27, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on November 10, 1998, as alleged.

The Board has duly reviewed the case record and finds that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty on November 10, 1998, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, and that the claim was filed within the applicable time limitations of the Act.² An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the manner alleged,³ that the injury was sustained while in the performance of duty,⁴ and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁶

There is no dispute that appellant is a federal employee, that she timely filed her claim for compensation benefits, and that the incident occurred as alleged. However, the Office found

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Robert A. Gregory*, 40 ECAB 478 (1989).

⁴ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *Steven R. Piper*, 39 ECAB 312 (1987).

⁶ *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

that the evidence was insufficient to establish that an injury resulted from the incident.⁷ Appellant, an address lister, claimed that, on November 10, 1998, she was in an automobile accident due to rain and a slippery road, causing whiplash to her neck and upper back. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on November 10, 1998.

The Board finds that appellant has not established that the November 10, 1998 employment incident resulted in an injury. No medical evidence was submitted with appellant's claim. Consequently, by letter dated July 22, 1999, the Office advised appellant of the specific type of evidence needed to establish her claim. However, appellant failed to respond to the Office's request within the allotted time. As appellant has not complied with the Office's request for the medical evidence necessary to substantiate her claim, she has failed to meet her burden of proof.⁸

The decision of the Office of Workers' Compensation Programs dated August 25, 1999 is affirmed.

Dated, Washington, DC
October 27, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁷ The Office stated, in its decision dated August 25, 1999, that previously paid continuation of pay (COP) would be charged to appellant's sick and/or annual leave or, if she does not have a leave balance, the money already paid as COP will be deemed an overpayment within the meaning of 5 U.S.C. § 5584.

⁸ Appellant argues on appeal that she submitted the requested information, but there is no indication in the record that the Office received any documents from appellant or communicated with her following the August 25, 1999 decision.